

# City of Thornton Proposed Metropolitan District Changes

## Draft Staff Recommendations - July 2, 2020

### **PURPOSE AND INTENT OF PROPOSED CHANGES:**

At the request of City Council, Thornton staff has identified options for addressing community and Council concerns regarding residential metropolitan districts. The City recognizes the important role that metropolitan districts have in financing the development of housing and commercial services to meet the needs of a growing population. The City also understands the desire of homeowners to be better informed of the purpose and tax implications of buying a home within a metro district, and concern about increasing taxes. The City's regulatory role in no way limits developers from securing private financing and/or investing their own money into District facilities and recovering money through sales revenues. The overarching goal is to promote the upside facilitated by the creation of metropolitan districts while limiting downside impacts to residents and businesses. To this extent, City staff has developed options that seek to balance the needs of developers and homeowners as follows:

- 1) Ensure metro districts remain a viable tool for developers to fund necessary and required infrastructure and services.
- 2) Ensure homeowners are adequately informed about metro districts and tax obligations; and protected from excessive tax burdens.

### **TOPICS ADDRESSED:**

- **Topic 1: Debt Mill Levy and Debt** – Limit and clarify Debt Mill Levy and Debt
- **Topic 2: Operating Mill Levy** – Limit and clarify Operating Mill Levy
- **Topic 3: Disclosure Requirements** – Better ensure that homebuyers are explicitly informed in understandable language the purpose and financial impact of buying a home within a metro district, and that district information and documents are readily available on a website created and maintained by the district.
- **Topic 4: Expiration Date of Service Plan and IGA** – Set an expiration date so that if development does not occur and debt is not issued within a timely manner, the district's service plan and IGA will expire and the district will be required to request a new or reinstated service plan/IGA with updated information once development is ready to occur.
- **Topic 5: Service Plan Compliance Remedies** – Clarifies service plan amendment requirements and includes a separate paragraph describing City remedies for any material departures from a district's approved service plan
- **Topic 6: Approved Conceptual Site Plan (CSP) Requirement** – A Service Plan approved prior to an approved CSP will not have authorizations for Debt issuance or imposition of mill levies or fees. The district may still go through the organizational election to set up the district, but will be required to obtain City Council approval of a service plan amendment and an IGA to identify Debt and mill levy/fee authorizations once the CSP for the development is approved.
- **Topic 7: City Website as Information Portal on Metro Districts** – Update and enhance the City's metro district webpage to provide more educational information for homeowners and ensure that current application information is available for applicants.

# Topic 1:

## Limit and Clarify Debt Mill Levy and Debt

**Purpose:** Staff is proposing amendments to the model service plan language to limit the amount of property tax a property owner should reasonably pay for public infrastructure in a new development. Once language is finalized, staff will also make necessary amendments to the model IGA and/or Chapter 66 of the City Code to reflect these changes. Generally, this includes the following:

### **A. Address unlimited Debt Mill Levy for Residential Property, Pages 3-9**

- Consider pros and cons of allowing an unlimited Debt Mill Levy and either eliminate option for residential districts or create more parameters for how this may be allowed recognizing that once the mill levy becomes unlimited, it stays unlimited. If there is a housing market crash and the District's assessed valuation drops significantly, homeowners have no protection in place for a mill levy cap. Changes to the Maximum Debt Mill Levy would not apply to commercial districts.

### **B. Address Debt Limitations and Debt Interest Rates, Pages 10-12**

- Ensure that a district's debt limitation is inclusive of developer advances or other loans
- Ensure that all debt, developer advances or other loans are subject to current market interest rates
- Require itemized identification and costs of exact infrastructure and services that the district will be funding and paying for through the Debt Mill Levy or Fees

The following pages identify staff's **draft** service plan amendments for consideration. These have not been presented to City Council yet and may be further revised.

Only the amended service plan sections are included herein. For broader context, please refer to the City's current model service plan and model intergovernmental agreement, dated 2019, available on the City's [webpage](#).

## **A. Draft Model Service Plan Language Options Addressing Unlimited Debt Mill Levy for Residential Properties**

Staff has identified three service plan amendment options:

- Option 1 – For Residential Districts, Debt Mill Levy would be capped at 50 mills with no allowance for an unlimited mill levy under any circumstance. Gallagher adjustments to the 50 mills would still be allowed to ensure the District retained consistent tax revenue.
- Option 2 – For Residential Districts, Debt Mill Levy could become unlimited only after residents control the District Board and debt is  $\leq$  50% of the Assessed Valuation (AV). (Gallagher adjustment allowed).
- Option 3 – For Residential Districts, Board may request City Council approval for Debt Mill Levy to become unlimited once debt is  $\leq$  50% AV. (Gallagher adjustment allowed).

<b>Option 1 – For Residential Districts, Debt Mill Levy capped at 50 mills, no allowance for unlimited mill levy</b>
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**Summary:** Amends the following service plan sections:

- Section II. Definitions of “Commercial District” and “Residential District” added to address different mill levy limitations for residential versus commercial property.
- Section VI.A. Reorders a sentence regarding debt, moving it from a newly deleted paragraph in VI.C.3 to VI.A.
- Section VI.C. Removes allowance for unlimited mill levy for Residential Districts when debt is  $\leq$  50% AV, but maintains this allowance for Commercial Districts.
- Section VI.C. Instead, states that the Maximum Debt Mill levy is 50 mills for Residential Districts, but retains allowance for the Gallagher adjustment.
- Section VI.C. Amends the Gallagher adjustment date to whatever date the service plan is approved.

### **Specific Model Service Plan Edits:**

#### **II. DEFINITIONS**

In this Service Plan, the following terms shall have the meanings indicated below, unless the context hereof clearly requires otherwise:

Commercial District: means a metropolitan district containing property classified for assessment as nonresidential. Any district which includes or is expected to include any residentially assessed property is defined as a Residential District and not a Commercial District. Income-producing multifamily development, such as apartments, can be included in Commercial Districts.

Residential District: means a metropolitan district containing property classified for assessment as residential. All districts which include or are expected to include any residential property, with

the exception of income-producing multifamily development, are defined as a Residential District and not a Commercial District.

## **VI. FINANCIAL PLAN**

### **A. General.**

The District shall be authorized to provide for the planning, design, acquisition, construction, installation, relocation and/or redevelopment of the Public Improvements from its revenues and by and through the proceeds of Debt to be issued by the District. The Financial Plan for the District shall be to issue such Debt as the District can reasonably pay within the Maximum Debt Mill Levy Imposition Term from revenues derived from the Maximum Debt Mill Levy, Fees and other legally available revenues. The total Debt that the District shall be permitted to issue shall not exceed \_\_\_\_\_ Dollars (\$\_\_\_\_\_) and shall be permitted to be issued on a schedule and in such year or years as the District determines shall meet the needs of the Financial Plan referenced above and phased to serve development as it occurs. All Debt issued by the District must be issued in compliance with the requirements of Section 32-1-1101, C.R.S. and all other requirements of State law. All bonds and other Debt issued by the District may be payable from any and all legally available revenues of the District, including general ad valorem taxes and Fees to be imposed upon all Taxable Property within the District. The District will also rely upon various other revenue sources authorized by law. These will include the power to assess Fees, rates, tolls, penalties, or charges as provided in Section 32-1-1001(1), C.R.S., as amended from time to time.

### **B. Maximum Voted Interest Rate and Maximum Underwriting Discount.**

The interest rate on any Debt is expected to be the market rate at the time the Debt is issued. In the event of a default, the proposed maximum interest rate on any Debt is not expected to exceed eighteen percent (18%). The proposed maximum underwriting discount will be five percent (5%). Debt, when issued, will comply with all relevant requirements of this Service Plan, State law and Federal law as then applicable to the issuance of public securities.

### **C. Maximum Debt Mill Levy.**

The “Maximum Debt Mill Levy” shall be the maximum mill levy the District is permitted to impose upon the taxable property within the District for payment of Debt, and shall be determined as follows:

1. For Residential Districts, the Maximum Debt Mill Levy shall be fifty (50) mills; provided that if the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement is changed by law; the mill levy limitation applicable to such Debt may be increased or decreased to reflect such changes, such increases or decreases to be determined by the Board in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenues generated by the mill levy, as adjusted for changes occurring after [date of service plan approval], are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation.

2. For Commercial Districts, the Maximum Debt Mill Levy shall be calculated as follows:

(a) If the total amount of aggregate District Debt exceeds fifty percent (50%) of the District’s assessed valuation, the Maximum Debt Mill Levy shall be fifty (50) mills; provided that if the

method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement is changed by law; the mill levy limitation applicable to such Debt may be increased or decreased to reflect such changes, such increases or decreases to be determined by the Board in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenues generated by the mill levy, as adjusted for changes occurring after [date of service plan approval], are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation.

(b) If the total amount of aggregate District Debt is equal to or less than fifty percent (50%) of the District's assessed valuation, either on the date of issuance or at any time thereafter, the mill levy to be imposed to repay such portion of Debt shall not be subject to the Maximum Debt Mill Levy and, as a result, the mill levy may be such amount as is necessary to pay the Debt service on such Debt, without limitation of rate.

(c) For purposes of the foregoing, once Debt has been determined to be within Section VI.C.2 above, so that the District is entitled to pledge to its payment an unlimited ad valorem mill levy, the District may provide that such Debt shall remain secured by such unlimited mill levy, notwithstanding any subsequent change in the District's Debt to assessed ratio. ~~All Debt issued by the District must be issued in compliance with the requirements of Section 32-1-1101, C.R.S. and all other requirements of State law.~~

To the extent that the District is composed of or subsequently organized into one or more subdistricts as permitted under Section 32-1-1101, C.R.S., the term "District" as used herein shall be deemed to refer to the District and to each such subdistrict separately, so that each of the subdistricts shall be treated as a separate, independent district for purposes of the application of this definition.

**Option 2 – For Residential Districts, Debt mill levy can become unlimited only after Residents control Board and debt is  $\leq$  50% of Assessed Valuation.**

**Summary:** Amends the following service plan sections:

- Section II. Definitions of “Commercial District” and “Residential District” added to address different mill levy limitations for residential versus commercial property.
- Section II. Definition of “Residents” added.
- Section VI.C. Changes allowance for unlimited Debt Mill Levy for Residential Districts when debt is  $\leq$  50% AV to indicate that can only happen once residents are a majority of the Directors on the Board.
- Section VI.C. Amends the Gallagher adjustment date to whatever date the service plan is approved.

**Specific Model Service Plan Edits:**

**II. DEFINITIONS**

In this Service Plan, the following terms shall have the meanings indicated below, unless the context hereof clearly requires otherwise:

Commercial District: means a metropolitan district containing property classified for assessment as nonresidential. Any district which includes or is expected to include any residentially assessed property is defined as a Residential District and not a Commercial District. Income-producing multifamily development, such as apartments, can be included in Commercial Districts.

Residential District: means a metropolitan district containing property classified for assessment as residential. All districts which include or are expected to include any residential property, with the exception of income-producing multifamily development, are defined as a Residential District and not a Commercial District.

Residents: means persons who currently own or rent developed property within the District Boundaries.

**VI. FINANCIAL PLAN**

**C. Maximum Debt Mill Levy.**

The “Maximum Debt Mill Levy” shall be the maximum mill levy the District is permitted to impose upon the taxable property within the District for payment of Debt, and shall be determined as follows:

1. If the total amount of aggregate District Debt exceeds fifty percent (50%) of the District’s assessed valuation, the Maximum Debt Mill Levy shall be fifty (50) mills; provided that if the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement is changed by law; the mill levy limitation applicable to such Debt may be increased or decreased to reflect such changes, such increases or decreases to be determined by the Board in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenues generated by the mill levy, as adjusted for changes occurring after [date of service plan approval], are neither diminished nor

enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation.

2. For Residential Districts, at such time that the majority of the Board are Residents of the District, if the total amount of aggregate District Debt is equal to or less than fifty percent (50%) of the District's assessed valuation, either on the date of issuance or at any time thereafter, the Board may make a determination by majority vote that the mill levy to be imposed to repay such portion of Debt shall not be subject to the Maximum Debt Mill Levy and, as a result, the mill levy may be such amount as is necessary to pay the Debt service on such Debt, without limitation of rate. The Maximum Debt Mill Levy shall not exceed the mill levy set forth in Section VI.C.1 above until the provisions in this Section VI.C.2 are met.

3. For Commercial Districts, if the total amount of aggregate District Debt is equal to or less than fifty percent (50%) of the District's assessed valuation, either on the date of issuance or at any time thereafter, the mill levy to be imposed to repay such portion of Debt shall not be subject to the Maximum Debt Mill Levy and, as a result, the mill levy may be such amount as is necessary to pay the Debt service on such Debt, without limitation of rate.

4. For purposes of the foregoing, once Debt has been determined to be within Section VI.C.2 above, so that the District is entitled to pledge to its payment an unlimited ad valorem mill levy, the District may provide that such Debt shall remain secured by such unlimited mill levy, notwithstanding any subsequent change in the District's Debt to assessed ratio. All Debt issued by the District must be issued in compliance with the requirements of Section 32-1-1101, C.R.S. and all other requirements of State law.

To the extent that the District is composed of or subsequently organized into one or more subdistricts as permitted under Section 32-1-1101, C.R.S., the term "District" as used herein shall be deemed to refer to the District and to each such subdistrict separately, so that each of the subdistricts shall be treated as a separate, independent district for purposes of the application of this definition.

**Option 3 – For Residential Districts, Board may request City Council approval for Debt Mill Levy to become unlimited once debt is  $\leq$  50% AV. City Council must approve a Service Plan Amendment to authorize unlimited Debt Mill Levy**

**Summary:** Amends the following service plan sections:

- Section II. Definitions of “Commercial District” and “Residential District” added to address different mill levy limitations for residential versus commercial property.
- Section VI.C. Changes allowance for unlimited Debt Mill Levy for Residential Districts when debt is  $\leq$  50% AV to indicate that can only happen if City Council approves a Service Plan Amendment at the request of the District Board to allow the change.
- Section VI.C. Amends the Gallagher adjustment date to whatever date the service plan is approved.

**Specific Model Service Plan Edits:**

**II. DEFINITIONS**

In this Service Plan, the following terms shall have the meanings indicated below, unless the context hereof clearly requires otherwise:

Commercial District: means a metropolitan district containing property classified for assessment as nonresidential. Any district which includes or is expected to include any residentially assessed property is defined as a Residential District and not a Commercial District. Income-producing multifamily development, such as apartments, can be included in Commercial Districts.

Residential District: means a metropolitan district containing property classified for assessment as residential. All districts which include or are expected to include any residential property, with the exception of income-producing multifamily development, are defined as a Residential District and not a Commercial District.

Residents: means persons who currently own or rent developed property within the District Boundaries.

**VI. FINANCIAL PLAN**

**C. Maximum Debt Mill Levy.**

The “Maximum Debt Mill Levy” shall be the maximum mill levy the District is permitted to impose upon the taxable property within the District for payment of Debt, and shall be determined as follows:

1. If the total amount of aggregate District Debt exceeds fifty percent (50%) of the District’s assessed valuation, the Maximum Debt Mill Levy shall be fifty (50) mills; provided that if the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement is changed by law; the mill levy limitation applicable to such Debt may be increased or decreased to reflect such changes, such increases or decreases to be determined by the Board in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenues generated by the mill levy, as adjusted for changes occurring after [date of service plan approval], are neither



diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation.

2. [For Residential Districts,](#) if the total amount of aggregate District Debt is equal to or less than fifty percent (50%) of the District's assessed valuation, either on the date of issuance or at any time thereafter, [the Board may request City Council approval of a Service Plan Amendment to allow that the mill levy to be imposed to repay such portion of Debt shall not be subject to the Maximum Debt Mill Levy and, as a result, the mill levy may be such amount as is necessary to pay the Debt service on such Debt, without limitation of rate. As part of the Service Plan Amendment request, the Board shall submit detailed justification demonstrating how an unlimited Debt Mill Levy will result in a net present value savings for repayment of District Debt and benefit taxpayers within the District. The Maximum Debt Mill Levy shall not exceed the mill levy set forth in Section VI.C.1 above without City Council approval.](#)

3. [For Commercial Districts,](#) if the total amount of aggregate District Debt is equal to or less than fifty percent (50%) of the District's assessed valuation, either on the date of issuance or at any time thereafter, the mill levy to be imposed to repay such portion of Debt shall not be subject to the Maximum Debt Mill Levy and, as a result, the mill levy may be such amount as is necessary to pay the Debt service on such Debt, without limitation of rate.

4. For purposes of the foregoing, once Debt has been determined to be within Section VI.C.2 above, so that the District is entitled to pledge to its payment an unlimited ad valorem mill levy, the District may provide that such Debt shall remain secured by such unlimited mill levy, notwithstanding any subsequent change in the District's Debt to assessed ratio. All Debt issued by the District must be issued in compliance with the requirements of Section 32-1-1101, C.R.S. and all other requirements of State law.

To the extent that the District is composed of or subsequently organized into one or more subdistricts as permitted under Section 32-1-1101, C.R.S., the term "District" as used herein shall be deemed to refer to the District and to each such subdistrict separately, so that each of the subdistricts shall be treated as a separate, independent district for purposes of the application of this definition.

## **B. Draft Model Service Plan Language Amending Debt Limitations, Interest Rates, and Clarifying What the Debt Mill Levy Can Pay For**

**Summary:** Amends the following service plan sections:

- Section II. Definition of “Developer Advances” added to include this type of long-term financial obligation in the Total Debt Issuance Limitation.
- Section II. Language added to definition of “Public Improvement” to refer to the Exhibit for The Engineer’s Estimate of Probable Costs and Approved Conceptual Site Plan.
- Section V.A.17. Total Debt Issuance Limitation modified to include Developer Advances.
- Section V.B. Language added to indicate that the Public Improvements will be identified in the Exhibit for The Engineer’s Estimate of Probable Costs and clarify that costs are itemized in this exhibit.
- Section VI.A. Language added to include Developer Advances in the total authorized amount of District debt.
- Section VI.B. Language added to sets parameters on the interest rates of Developer Advances or other loans.
- Exhibit F/G (Letter depends on whether previous exhibit is included in service plan). Retains exhibit that has been added as of October 2019 but adds instructions to applicant that improvements being funded by the District must be itemized with costs using the provided template.

### **Specific Model Service Plan Edits:**

#### **II. DEFINITIONS**

In this Service Plan, the following terms shall have the meanings indicated below, unless the context hereof clearly requires otherwise:

Developer Advances: means any funds recorded as District revenue that are advanced from a homebuilder or other entity developing the Project that become a long-term financial obligation of the District to be repaid from future bond proceeds or other available revenue. Developer Advances shall be included with other Debt in the Total Debt Issuance Limitation authorized in Sections V.A.17 and VI.A.

Public Improvements: means a part or all of the improvements authorized to be planned, designed, acquired, constructed, installed, relocated, redeveloped and financed as generally described in the Special District Act, except as specifically limited in Section V below that benefit the Service Area and serve the future taxpayers and inhabitants of the Service Area as determined by the Board of the District. More specifically, the Public Improvements eligible to be financed by the District are itemized and identified in The Engineer’s Estimate of Probable Costs attached hereto as EXHIBIT [F/G]. The eligible Public Improvements must be identified by the Approved Conceptual Site Plan [or Overall Development Plan] as necessary for the construction and development of the Project.

**V. DESCRIPTION OF PROPOSED POWERS, IMPROVEMENTS AND SERVICES**

**A. Powers of the District and Service Plan Amendment.**

17. Total Debt Issuance Limitation (*Note: this heading will be revised*). In total, the District shall not issue Debt, or incur other long-term financial obligations such as Developer Advances, in excess of \_\_\_\_\_ Dollars (\$\_\_\_\_\_).

**V. DESCRIPTION OF PROPOSED POWERS, IMPROVEMENTS AND SERVICES**

**B. Preliminary Engineering Survey.**

The District shall have authority to provide for the planning, design, acquisition, construction, installation, relocation, redevelopment, maintenance, and financing of the Public Improvements within and without the boundaries of the District, to be more specifically defined in an Approved Conceptual Site Plan and identified in The Engineer's Estimate of Probable Cost attached hereto as EXHIBIT [F/G]. An estimate of the costs of the Public Improvements which may be planned for, designed, acquired, constructed, installed, relocated, redeveloped, maintained or financed was prepared based upon a preliminary engineering survey and estimates derived from the zoning on the property in the Service Area and is approximately \_\_\_\_\_ Dollars (\$\_\_\_\_\_). These costs are itemized in The Engineer's Estimate of Probable Cost is attached hereto as EXHIBIT [F/G].

All of the Public Improvements will be designed in such a way as to assure that the Public Improvements standards will be compatible with those of the City and shall be in accordance with the requirements of the Approved Conceptual Site Plan. All construction cost estimates are based on the assumption that construction conforms to applicable local, State or Federal requirements.

**VI. FINANCIAL PLAN**

**A. General.**

The District shall be authorized to provide for the planning, design, acquisition, construction, installation, relocation and/or redevelopment of the Public Improvements from its revenues and by and through the proceeds of Debt to be issued by the District. The Financial Plan for the District shall be to issue such Debt as the District can reasonably pay within the Maximum Debt Mill Levy Imposition Term from revenues derived from the Maximum Debt Mill Levy, Fees and other legally available revenues. Revenue such as Developer Advances or loans that become long-term financial obligations of the District shall also be included in the Debt limitation. In total, the District shall not issue Debt, or incur other long-term financial obligations such as Developer Advances, in excess of \_\_\_\_\_ Dollars (\$\_\_\_\_\_). ~~The total Debt that the District shall be permitted to issue shall not exceed \_\_\_\_\_ Dollars (\$\_\_\_\_\_).~~ and Debt shall be permitted to be issued on a schedule and in such year or years as the District determines shall meet the needs of the Financial Plan referenced above and phased to serve development as it occurs. All bonds and other Debt issued by the District may be payable from any and all legally available revenues of the District, including general ad valorem taxes and Fees to be imposed upon all Taxable Property within the District. The District will also rely upon various other revenue sources authorized by law. These will include the power to assess Fees, rates, tolls, penalties, or charges as provided in Section 32-1-1001(1), C.R.S., as amended from time to time.

**B. Maximum Voted Interest Rate and Maximum Underwriting Discount.**

The interest rate on any Debt is expected to be the market rate at the time the Debt is issued. At the time of any new Debt issuance, if current interest rates are lower than the initial Debt, the outstanding Debt must be refinanced and included in the new Debt issuance.

Interest rates on Developer Advances or other financial obligations such as loans should be equal to the actual terms of the Debt or tied to the current market rate at the time of the obligation.

In the event of a default, the proposed maximum interest rate on any Debt is not expected to exceed eighteen percent (18%). The proposed maximum underwriting discount will be five percent (5%). Debt, when issued, will comply with all relevant requirements of this Service Plan, State law and Federal law as then applicable to the issuance of public securities.

**EXHIBIT [F/G].** Add Exhibit with template to service plan: EXHIBIT G (or EXHIBIT F if there is no itemization of city costs), Engineer's Estimate of Probable Cost [applicant to itemize all Public Improvements to be funded by the District using the template included herein]

# Topic 2:

## Limit and Clarify Operating Mill Levy

**Purpose:** Staff is proposing amendments to the model service plan language to limit the amount of property tax a residential property owner would reasonably pay for ongoing administration, operation and maintenance of metro district owned facilities. Staff will also amend the model IGA and Chapter 66 of the City Code to reflect these changes once language is finalized.

The following pages identify three options for **draft** service plan amendments for consideration. These have not been presented to City Council yet and may be further revised.

Only the amended service plan sections are included herein. For broader context, please refer to the City's current model service plan and model intergovernmental agreement, dated 2019, available on the [webpage](#).

### **Draft Model Service Plan Language Options Addressing Operating Mill Levy**

Staff has identified three service plan amendment options:

- Option 1 (Pages 14-17) – Maximum Operating Mill Levy would be capped at 10 mills for Residential Districts. Gallagher adjustments to the 10 mills would be allowed to ensure the District retained consistent tax revenue.
- Option 2 (Pages 17-21) —Maximum Operating Mill Levy would be capped at 10 mills for Residential Districts unless a resident-controlled Board voted to increase the Operating Mill Levy. (Gallagher adjustment allowed)
- Option 3 (Pages 21-24) – Board may request City Council approval for an increase to the 10 mill Maximum Operating Mill Levy. (Gallagher adjustment allowed)

<b>Option 1 – For Residential Districts, the Maximum Operating Mill Levy is 10 mills (with Gallagher adjustment)</b>
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**Summary:** Amends the following service plan sections:

- Section I.C. Adds reference to Operating Mill Levy.
- Section II. Definitions of “Commercial Districts”, “Maximum Operating Mill Levy”, “Operating Mill Levy” and “Residential Districts” added.
- Section V.A.1. Adds reference to District operating and maintaining items identified in Section VI.I.
- Section VI.E. Removes reference to operations and maintenance because this paragraph is about debt repayment sources.
- Section VI.I. Identifies Operating Mill Levy and what can be funded with it. Removes reference to the Debt Mill Levy being able to increase to pay for operations and maintenance.
- Section VI.J. New section added to identify and limit the Maximum Operating Mill Levy for Residential Districts to 10 mills. Amends the Gallagher adjustment date to whatever date the service plan is approved.

**Specific Model Service Plan Edits:**

**I. INTRODUCTION**

**C. Objective of the City Regarding District’s Service Plan**

The City’s objective in approving the Service Plan for the District is to authorize the District to provide for the planning, design, acquisition, construction, installation, relocation and redevelopment of the Public Improvements from the proceeds of Debt to be issued by the District. All Debt is expected to be repaid by taxes imposed and collected for no longer than the Maximum Debt Mill Levy Imposition Term and at a tax mill levy no higher than the Maximum Debt Mill Levy, and/or repaid by Fees as limited by Section V.A.18.

This Service Plan is intended to establish a limited purpose for the District and explicit financial constraints that are not to be violated under any circumstances. The primary purpose is to provide for the Public Improvements associated with development and regional needs pursuant to the Approved Conceptual Site Plan for the property. Operation and maintenance services are allowed [as described in Section VI.I and through an intergovernmental agreement with the City, attached as Exhibit E. Ongoing operation and maintenance services are expected to be repaid by taxes imposed at a tax mill levy no higher than the Maximum Operating Mill Levy, and/or repaid by Fees as limited by Section V.A.18](#)

It is the intent of the District to dissolve upon payment or defeasance of all Debt incurred or upon a court determination that adequate provision has been made for the payment of all Debt, and if the District has authorized operating functions under an intergovernmental agreement with the City, to retain only the power necessary to impose and collect taxes [at a tax mill levy no higher than the Maximum Operating Mill Levy](#) or Fees to pay for these costs.

The District shall be authorized to finance the Public Improvements that can be funded from Debt to be repaid from Fees or from tax revenues collected from a mill levy which shall not exceed the Maximum Debt Mill Levy and the Maximum Debt Mill Levy Imposition Term. It is the intent of this

Service Plan to assure to the extent possible that no property bear an economic burden that is greater than that associated with the Maximum Debt Mill Levy in amount and that no property developed for a residential use bear an economic burden that is greater than that associated with the Maximum Debt Mill Levy Imposition Term in duration even under bankruptcy or other unusual situations. Generally, the costs of Public Improvements that cannot be funded within these parameters are not costs to be paid by the District.

## **II. DEFINITIONS**

In this Service Plan, the following terms shall have the meanings indicated below, unless the context hereof clearly requires otherwise:

Commercial District: means a metropolitan district containing property classified for assessment as nonresidential. Any district which includes or is expected to include any residentially assessed property is defined as a Residential District and not a Commercial District. Income-producing multifamily development, such as apartments, can be included in Commercial Districts.

Maximum Operating Mill Levy: means the maximum mill levy identified in Section VI.J that the District is permitted to impose for payment of ongoing District administration, operations and maintenance costs described in Section VI.I.

Operating Mill Levy: means a property tax mill levy imposed on Taxable Property for the purpose of funding ongoing District administration, operations and maintenance described in Section VI.I and as allowed through an intergovernmental agreement with the City, and imposed at a rate not to exceed the Maximum Operating Mill Levy as set forth in Section VI.J.

Residential District: means a metropolitan district containing property classified for assessment as residential. All districts which include or are expected to include any residential property, with the exception of income-producing multifamily development, are defined as a Residential District and not a Commercial District.

## **V. DESCRIPTION OF PROPOSED POWERS, IMPROVEMENTS AND SERVICES**

### **A. Powers of the District and Service Plan Amendment.**

1. Operations and Maintenance Limitation. The purpose of the District is to plan for, design, acquire, construct, install, relocate, redevelop and finance the Public Improvements. The District shall dedicate the Public Improvements to the City or other appropriate jurisdiction or owners association in a manner consistent with the Approved Conceptual Site Plan and other rules and regulations of the City and applicable provisions of the City Code. The District shall not be authorized to operate and maintain any part or all of the Public Improvements except as described in Section VI.I below and unless the provision of such operation and maintenance is pursuant to an intergovernmental agreement with the City approved by a resolution of City Council. The District is required and obligated to operate and maintain park and recreation improvements. Unless otherwise specified in the intergovernmental agreement, in the form attached as Exhibit E, all parks and trails shall be open to the general public free of charge.

## VI. **FINANCIAL PLAN**

### E. **Debt Repayment Sources.**

The District may impose a mill levy on Taxable Property within its boundaries as a primary source of revenue for repayment of debt service ~~and for operations and maintenance~~. The District may also rely upon various other revenue sources authorized by law. At the District's discretion, these may include the power to assess Fees, rates, tolls, penalties, or charges as provided in Section 32-1-1001(I), C.R.S., as amended from time to time and as limited by Section V.A. 18-19. In no event shall the debt service mill levy in the District exceed the Maximum Debt Mill Levy or the Maximum Debt Mill Levy Imposition Term, except pursuant to an intergovernmental agreement between the District and the City.

### I. **District's Operating Costs.**

The estimated cost of acquiring land, engineering services, legal services and administrative services, together with the estimated costs of the District's organization and initial operations, are anticipated to be \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), which will be eligible for reimbursement from Debt proceeds.

In addition to the capital costs of the Public Improvements, the District will require operating funds for administration and to plan and cause the Public Improvements to be constructed and maintained. The first year's operating budget is estimated to be \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) which is anticipated to be derived from property taxes and other revenues.

Ongoing administration, operation and maintenance costs may be paid from property taxes collected through the imposition of an "Operating Mill Levy", subject to the limitations set forth in Section VI.J below, as well as Fees as limited by Section V.A.18. Examples of expenses eligible to be funded from the Operating Mill Levy include, but may not be limited to:

1. General operating expenses such as accounting, audit, legal counsel, Director's fees, elections, management, engineering, office supplies, payroll taxes;
2. Architectural review and covenant control;
3. Maintenance of parks, greenways, trails, recreational and amenity improvements such as playgrounds, sports clubs, clubhouses, sports fields, and pavilions not owned or maintained by the City or an owner's association;
4. Maintenance of landscaping and irrigation;
5. Cleaning, repair and snowplowing of streets not maintained by the City or an owner's association;
6. Sidewalk snow shoveling and maintenance;
7. Repair and replacement of any Public Improvements not dedicated to the City, other appropriate jurisdiction, or owner's association;
8. Maintenance of detention ponds.

The Operating Mill Levy shall not be used for repayment of Debt, Developer Advances, or operation or maintenance of any Public Improvement dedicated to the City, other jurisdiction or owner's



association. The Operating Mill Levy cannot be imposed on or before the effective date of approval by the City of a Conceptual Site Plan and Intergovernmental Agreement with the City.

~~The Maximum Debt Mill Levy for the repayment of Debt shall not apply to the District's ability to increase its mill levy as necessary for provision of operation and maintenance services to its taxpayers and service users.~~

J. Maximum Operating Mill Levy

The "Maximum Operating Mill Levy" shall be the maximum mill levy that the District is permitted to impose upon Taxable Property within the District for payment of ongoing District administration, operations and maintenance costs described in Section VI.I determined as follows:

1. For Residential Districts, the Maximum Operating Mill Levy is 10 mills provided that if the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement is changed by law; the Maximum Operating Mill Levy may be increased or decreased to reflect such changes, such increases or decreases to be determined by the Board in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenues generated by the mill levy, as adjusted for changes occurring after [date of service plan approval], are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation.

2. Commercial Districts shall not be subject to a Maximum Operating Mill Levy.

<b>Option 2 – For Residential Districts, Maximum Operating Mill Levy is 10 mills until Residents control the Board at which time the Board can vote to increase mill levy</b>
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**Summary:** Amends the following service plan sections:

- Section I.C. Adds reference to Operating Mill Levy.
- Section II. Definitions of "Commercial Districts", "Maximum Operating Mill Levy", "Operating Mill Levy", "Residential Districts" and "Residents" added.
- Section V.A.1. Adds reference to District operating and maintaining items identified in Section VI.I.
- Section VI.E. Removes reference to operations and maintenance because this paragraph is about debt repayment sources.
- Section VI.I. Identifies Operating Mill Levy and what can be funded with it. Removes reference to the Debt Mill Levy being able to increase to pay for operations and maintenance.
- Section VI.J. New section added to identify and limit the Maximum Operating Mill Levy for Residential Districts to 10 mills until residents control the Board at which time they can vote to determine whether they want to increase this mill levy. Amends the Gallagher adjustment date to whatever date the service plan is approved.

**Specific Model Service Plan Edits:**

**I. INTRODUCTION**

**C. Objective of the City Regarding District's Service Plan**

The City's objective in approving the Service Plan for the District is to authorize the District to provide for the planning, design, acquisition, construction, installation, relocation and redevelopment of the Public Improvements from the proceeds of Debt to be issued by the District. All Debt is expected to be repaid by taxes imposed and collected for no longer than the Maximum Debt Mill Levy Imposition Term and at a tax mill levy no higher than the Maximum Debt Mill Levy, and/or repaid by Fees as limited by Section V.A.18.

This Service Plan is intended to establish a limited purpose for the District and explicit financial constraints that are not to be violated under any circumstances. The primary purpose is to provide for the Public Improvements associated with development and regional needs pursuant to the Approved Conceptual Site Plan for the property. Operation and maintenance services are allowed [as described in Section VI.I and](#) through an intergovernmental agreement with the City, attached as Exhibit E. [Ongoing operation and maintenance services are expected to be repaid by taxes imposed at a tax mill levy no higher than the Maximum Operating Mill Levy, and/or repaid by Fees as limited by Section V.A.18](#)

It is the intent of the District to dissolve upon payment or defeasance of all Debt incurred or upon a court determination that adequate provision has been made for the payment of all Debt, and if the District has authorized operating functions under an intergovernmental agreement with the City, to retain only the power necessary to impose and collect taxes [at a tax mill levy no higher than the Maximum Operating Mill Levy](#) or Fees to pay for these costs.

The District shall be authorized to finance the Public Improvements that can be funded from Debt to be repaid from Fees or from tax revenues collected from a mill levy which shall not exceed the Maximum Debt Mill Levy and the Maximum Debt Mill Levy Imposition Term. It is the intent of this Service Plan to assure to the extent possible that no property bear an economic burden that is greater than that associated with the Maximum Debt Mill Levy in amount and that no property developed for a residential use bear an economic burden that is greater than that associated with the Maximum Debt Mill Levy Imposition Term in duration even under bankruptcy or other unusual situations. Generally, the costs of Public Improvements that cannot be funded within these parameters are not costs to be paid by the District.

**II. DEFINITIONS**

In this Service Plan, the following terms shall have the meanings indicated below, unless the context hereof clearly requires otherwise:

[Commercial District: means a metropolitan district containing property classified for assessment as nonresidential. Any district which includes or is expected to include any residentially assessed property is defined as a Residential District and not a Commercial District. Income-producing multifamily development, such as apartments, can be included in Commercial Districts.](#)

[Maximum Operating Mill Levy: means the maximum mill levy identified in Section VI.J that the District is permitted to impose for payment of ongoing District administration, operations and maintenance costs described in Section VI.I.](#)

Operating Mill Levy: means a property tax mill levy imposed on Taxable Property for the purpose of funding ongoing District administration, operations and maintenance described in Section VI.I and as allowed through an intergovernmental agreement with the City, and imposed at a rate not to exceed the Maximum Operating Mill Levy as set forth in Section VI.J.

Residential District: means a metropolitan district containing property classified for assessment as residential. All districts which include or are expected to include any residential property, with the exception of income-producing multifamily development, are defined as a Residential District and not a Commercial District.

Residents: means persons who currently own or rent developed property within the District Boundaries.

## **V. DESCRIPTION OF PROPOSED POWERS, IMPROVEMENTS AND SERVICES**

### **A. Powers of the District and Service Plan Amendment.**

1. Operations and Maintenance Limitation. The purpose of the District is to plan for, design, acquire, construct, install, relocate, redevelop and finance the Public Improvements. The District shall dedicate the Public Improvements to the City or other appropriate jurisdiction or owners association in a manner consistent with the Approved Conceptual Site Plan and other rules and regulations of the City and applicable provisions of the City Code. The District shall not be authorized to operate and maintain any part or all of the Public Improvements except as described in Section VI.I below and unless the provision of such operation and maintenance is pursuant to an intergovernmental agreement with the City approved by a resolution of City Council. The District is required and obligated to operate and maintain park and recreation improvements. Unless otherwise specified in the intergovernmental agreement, in the form attached as Exhibit E, all parks and trails shall be open to the general public free of charge.

## **VI. FINANCIAL PLAN**

### **E. Debt Repayment Sources.**

The District may impose a mill levy on taxable property within its boundaries as a primary source of revenue for repayment of debt service ~~and for operations and maintenance~~. The District may also rely upon various other revenue sources authorized by law. At the District's discretion, these may include the power to assess Fees, rates, tolls, penalties, or charges as provided in Section 32-1-1001(I), C.R.S., as amended from time to time and as limited by Section V.A. 18-19. In no event shall the debt service mill levy in the District exceed the Maximum Debt Mill Levy or the Maximum Debt Mill Levy Imposition Term, except pursuant to an intergovernmental agreement between the District and the City.

### **I. District's Operating Costs.**

The estimated cost of acquiring land, engineering services, legal services and administrative services, together with the estimated costs of the District's organization and initial operations, are anticipated to be \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), which will be eligible for reimbursement from Debt proceeds.

In addition to the capital costs of the Public Improvements, the District will require operating funds for administration and to plan and cause the Public Improvements to be constructed and maintained. The first year's operating budget is estimated to be \_\_\_\_\_ Dollars (\$\_\_\_\_\_) which is anticipated to be derived from property taxes and other revenues.

Ongoing administration, operation and maintenance costs may be paid from property taxes collected through the imposition of an "Operating Mill Levy", subject to the limitations set forth in Section VI.J below, as well as Fees as limited by Section V.A.18. Examples of expenses eligible to be funded from the Operating Mill Levy include, but may not be limited to:

1. General operating expenses such as accounting, audit, legal counsel, Director's fees, elections, management, engineering, office supplies, payroll taxes;
2. Architectural review and covenant control;
3. Maintenance of parks, greenways, trails, recreational and amenity improvements such as playgrounds, sports clubs, clubhouses, sports fields, and pavilions not owned or maintained by the City or an owner's association;
4. Maintenance of landscaping and irrigation;
5. Cleaning, repair and snowplowing of streets not maintained by the City or an owner's association;
6. Sidewalk snow shoveling and maintenance;
7. Repair and replacement of any Public Improvements not dedicated to the City, other appropriate jurisdiction, or owner's association;
8. Maintenance of detention ponds.

The Operating Mill Levy shall not be used for repayment of Debt, Developer Advances, or operation or maintenance of any Public Improvement dedicated to the City, other jurisdiction or owner's association. The Operating Mill Levy cannot be imposed on or before the effective date of approval by the City of an Approved Conceptual Site Plan and Intergovernmental Agreement with the City.

~~The Maximum Debt Mill Levy for the repayment of Debt shall not apply to the District's ability to increase its mill levy as necessary for provision of operation and maintenance services to its taxpayers and service users.~~

#### J. Maximum Operating Mill Levy

The "Maximum Operating Mill Levy" shall be the maximum mill levy that the District is permitted to impose upon Taxable Property within the District for payment of ongoing administration, operation, and maintenance costs as described in Section VI.I, and shall be determined as follows:

1. For Residential Districts, until such time that the majority of the Board are Residents of the District, the "Maximum Operating Mill Levy" shall be 10 mills provided that if the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement is changed by law; the Maximum Operating Mill Levy may be increased or decreased to reflect such changes, such increases or decreases to be determined by the Board in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenues generated by the mill levy, as adjusted for changes

occurring after [date of service plan approval], are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation.

2. At such time that the majority of the Board are Residents of the District, the Board may make a determination by majority vote to increase the Maximum Operating Mill Levy to any amount necessary to fund eligible expenses for ongoing administration, operation and maintenance as described in Section VI.I.

3. Commercial Districts shall not be subject to a Maximum Operating Mill Levy.

**Option 3 – For Residential Districts, the Maximum Operating Mill Levy is 10 mills unless City Council approves a Service Plan Amendment to allow an increase to the Maximum Operating Mill Levy**

**Summary:** Amends the following service plan sections:

- Section I.C. Adds reference to Operating Mill Levy.
- Section II. Definitions of “Commercial Districts”, “Maximum Operating Mill Levy”, “Operating Mill Levy” and “Residential Districts” added.
- Section V.A.1. Adds reference to District operating and maintaining items identified in Section VI.I.
- Section VI.E. Removes reference to operations and maintenance because this paragraph is about debt repayment sources.
- Section VI.I. Identifies Operating Mill Levy and what can be funded with it. Removes reference to the Debt Mill Levy being able to increase to pay for operations and maintenance.
- Section VI.J. New section added to identify and limit the Maximum Operating Mill Levy to 10 mills for Residential Districts unless City Council approves an increase to the mill levy. Amends the Gallagher adjustment date to whatever date the service plan is approved.

**Specific Model Service Plan Edits:**

**I. INTRODUCTION**

**C. Objective of the City Regarding District’s Service Plan**

The City’s objective in approving the Service Plan for the District is to authorize the District to provide for the planning, design, acquisition, construction, installation, relocation and redevelopment of the Public Improvements from the proceeds of Debt to be issued by the District. All Debt is expected to be repaid by taxes imposed and collected for no longer than the Maximum Debt Mill Levy Imposition Term and at a tax mill levy no higher than the Maximum Debt Mill Levy, and/or repaid by Fees as limited by Section V.A.18.

This Service Plan is intended to establish a limited purpose for the District and explicit financial constraints that are not to be violated under any circumstances. The primary purpose is to provide for the Public Improvements associated with development and regional needs pursuant to the Approved Conceptual Site Plan for the property. Operation and maintenance services are allowed [as described in Section VI.I and through an intergovernmental agreement with the City, attached as Exhibit E. Ongoing operation and maintenance services are expected to be repaid by taxes imposed at a tax mill levy no higher than the Maximum Operating Mill Levy, and/or repaid by Fees as limited by Section V.A.18](#)

It is the intent of the District to dissolve upon payment or defeasance of all Debt incurred or upon a court determination that adequate provision has been made for the payment of all Debt, and if the District has authorized operating functions under an intergovernmental agreement with the City, to retain only the power necessary to impose and collect taxes [at a tax mill levy no higher than the Maximum Operating Mill Levy](#) or Fees to pay for these costs.

The District shall be authorized to finance the Public Improvements that can be funded from Debt to be repaid from Fees or from tax revenues collected from a mill levy which shall not exceed the Maximum Debt Mill Levy and the Maximum Debt Mill Levy Imposition Term. It is the intent of this Service Plan to assure to the extent possible that no property bear an economic burden that is greater than that associated with the Maximum Debt Mill Levy in amount and that no property developed for a residential use bear an economic burden that is greater than that associated with the Maximum Debt Mill Levy Imposition Term in duration even under bankruptcy or other unusual situations. Generally, the costs of Public Improvements that cannot be funded within these parameters are not costs to be paid by the District.

## **II. DEFINITIONS**

In this Service Plan, the following terms shall have the meanings indicated below, unless the context hereof clearly requires otherwise:

[Commercial District: means a metropolitan district containing property classified for assessment as nonresidential. Any district which includes or is expected to include any residentially assessed property is defined as a Residential District and not a Commercial District. Income-producing multifamily development, such as apartments, can be included in Commercial Districts.](#)

[Maximum Operating Mill Levy: means the maximum mill levy identified in Section VI.J that the District is permitted to impose for payment of ongoing District administration, operations and maintenance costs described in Section VI.I.](#)

[Operating Mill Levy: means a property tax mill levy imposed on Taxable Property for the purpose of funding ongoing District administration, operations and maintenance described in Section VI.I and as allowed through an intergovernmental agreement with the City, and imposed at a rate not to exceed the Maximum Operating Mill Levy as set forth in Section VI.J.](#)

[Residential District: means a metropolitan district containing property classified for assessment as residential. All districts which include or are expected to include any residential property, with the exception of income-producing multifamily development, are defined as a Residential District and not a Commercial District.](#)

**V. DESCRIPTION OF PROPOSED POWERS, IMPROVEMENTS AND SERVICES**

A. Powers of the District and Service Plan Amendment.

1. Operations and Maintenance Limitation. The purpose of the District is to plan for, design, acquire, construct, install, relocate, redevelop and finance the Public Improvements. The District shall dedicate the Public Improvements to the City or other appropriate jurisdiction or owners association in a manner consistent with the Approved Conceptual Site Plan and other rules and regulations of the City and applicable provisions of the City Code. The District shall not be authorized to operate and maintain any part or all of the Public Improvements except as described in Section VI.I below and unless the provision of such operation and maintenance is pursuant to an intergovernmental agreement with the City approved by a resolution of City Council. The District is required and obligated to operate and maintain park and recreation improvements. Unless otherwise specified in the intergovernmental agreement, in the form attached as Exhibit E, all parks and trails shall be open to the general public free of charge.

**VI. FINANCIAL PLAN**

E. Debt Repayment Sources.

The District may impose a mill levy on taxable property within its boundaries as a primary source of revenue for repayment of debt service ~~and for operations and maintenance~~. The District may also rely upon various other revenue sources authorized by law. At the District's discretion, these may include the power to assess Fees, rates, tolls, penalties, or charges as provided in Section 32-1-1001(I), C.R.S., as amended from time to time and as limited by Section V.A. 18-19. In no event shall the debt service mill levy in the District exceed the Maximum Debt Mill Levy or the Maximum Debt Mill Levy Imposition Term, except pursuant to an intergovernmental agreement between the District and the City.

I. District's Operating Costs.

The estimated cost of acquiring land, engineering services, legal services and administrative services, together with the estimated costs of the District's organization and initial operations, are anticipated to be \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), which will be eligible for reimbursement from Debt proceeds.

In addition to the capital costs of the Public Improvements, the District will require operating funds for administration and to plan and cause the Public Improvements to be constructed and maintained. The first year's operating budget is estimated to be \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) which is anticipated to be derived from property taxes and other revenues.

Ongoing administration, operation and maintenance costs may be paid from property taxes collected through the imposition of an "Operating Mill Levy", subject to the limitations set forth in Section VI.J below, as well as Fees as limited by Section V.A.18. Examples of expenses eligible to be funded from the Operating Mill Levy include, but may not be limited to:

1. General operating expenses such as accounting, audit, legal counsel, Director's fees, elections, management, engineering, office supplies, payroll taxes;

2. Architectural review and covenant control;



3. Maintenance of parks, greenways, trails, recreational and amenity improvements such as playgrounds, sports clubs, clubhouses, sports fields, and pavilions not owned or maintained by the City or an owner's association;

4. Maintenance of landscaping and irrigation;

5. Cleaning, repair and snowplowing of streets not maintained by the City or an owner's association;

6. Sidewalk snow shoveling and maintenance;

7. Repair and replacement of any Public Improvements not dedicated to the City, other appropriate jurisdiction, or HOA;

8. Maintenance of detention ponds.

The Operating Mill Levy shall not be used for repayment of Debt, Developer Advances, or operation or maintenance of any Public Improvement dedicated to the City, other jurisdiction or owner's association. The Operating Mill Levy cannot be imposed on or before the effective date of approval by the City of an Approved Conceptual Site Plan and Intergovernmental Agreement with the City.

~~The Maximum Debt Mill Levy for the repayment of Debt shall not apply to the District's ability to increase its mill levy as necessary for provision of operation and maintenance services to its taxpayers and service users.~~

J. Maximum Operating Mill Levy

The "Maximum Operating Mill Levy" shall be the maximum mill levy that the District is permitted to impose upon Taxable Property within the District for payment of ongoing administration, operation, and maintenance costs as described in Section VI.I, and shall be determined as follows:

1. For a Residential District, the "Maximum Operating Mill Levy" shall be 10 mills provided that if the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement is changed by law; the Maximum Operating Mill Levy may be increased or decreased to reflect such changes, such increases or decreases to be determined by the Board in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenues generated by the mill levy, as adjusted for changes occurring after [date of service plan approval], are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation.

2. The Board of a Residential District may request City Council approval to increase the Maximum Operating Mill Levy to a specified amount necessary to fund eligible expenses for ongoing administration, operation and maintenance as described in Section VI.I. The Board will be required to apply for a Service Plan Amendment and provide detailed justification for the increase. The Maximum Operating Mill Levy shall not exceed 10 mills without City Council approval of the Service Plan Amendment authorizing the higher Maximum Operating Mill Levy.

3. Commercial Districts shall not be subject to a Maximum Operating Mill Levy.



# Topic 3:

## Disclosure Requirements

**Purpose:** Staff is proposing amendments to the model service plan (*and IGA as appropriate*) language to better ensure that homebuyers are explicitly informed in understandable language about the purpose and financial impact of buying a home within a metro district, and that district information and documents are readily available on a district created and maintained website.

The following pages identify **draft** service plan amendments and a new service plan Exhibit put together by staff for consideration. City Code section 66-60(a)(2)b.7 regarding notices of disclosure will also be amended to reflect these changes. These changes have not been presented to City Council yet and may be further revised.

Only the amended service plan sections are included herein. For broader context, please refer to the City's current model service plan and model intergovernmental agreement, dated 2019, available on the City's [webpage](#).

## Draft Model Service Plan Language Addressing Disclosure Requirements

**Summary:** Amends Service Plan Section IX and adds a new Exhibit to be used as a disclosure form to be signed by homebuyers and recorded for each property within the district with Adams County.

### **Specific Model Service Plan Edits:**

#### **IX. DISCLOSURE NOTICES**

1. The District will provide the City with written notice of the date of hearing on its petition for organization filed with the district court.
2. It will be the responsibility of the District and each developer and home builder ~~will use reasonable efforts and due diligence to cause the developer or to ensure that home builder to provide~~ a written notice of disclosure is provided to all initial purchasers of property in the District that describes the ~~impact of the District mill levy and fees~~ general purpose of the District and financial impact on each residential property at the time of entering into the purchase contract. ~~along with the purchase contract.~~ Specifically, the written notice of disclosure shall provide the following information:
  - a. General description and purpose of the District.
  - b. Contact information for the District.
  - c. Website address for the District.
  - d. District Boundary Map showing all lots within the District.
  - e. The Maximum Debt Mill Levy and Maximum Operating Mill Levy that may be imposed on the residential property for each year the District is in existence and a calculation of the associated taxes that the homeowner would pay.
  - f. List of all other tax entities within the Tax Area of the District and their current mill levies and associated taxes.
  - g. The District's Total Debt Issuance Limitation and a description of the Public Improvements that the District Debt is being issued to pay for.
  - h. The Maximum Debt Mill Levy Imposition Term, providing an understanding of the duration for which the property will be taxed to pay off Debt.
  - i. A description of what the Operating Mill Levy pays for and the duration that the property will be taxed to pay for the eligible Operating Mill Levy expenses.
  - j. Any and all fees that may be imposed on each residential property for each year the District is in existence.

Each home buyer will be asked to acknowledge receipt of such notice of disclosure at the time of entering into the purchase contract. The form of notice shall be substantially in the form of Exhibit H [G if no Exhibit F] hereto; provided that such notice may be modified by the District so long as a new notice is submitted to and approved by the City prior to using such modified notice. Any modified notice will be expected to substantially include the information identified in 'a'- 'j' of this section.

3. The District shall record the notice of disclosure in the form of Exhibit H[G] for each property within the District with Adams County at the time the subdivision plat is recorded, or ~~provide the City with a copy of the recorded~~ record the notice of disclosure for each property prior to

- any building permits for the subdivision being issued if the subdivision plat has already been filed. The District shall provide the City with a copy of the recorded notice of disclosure. The notice of disclosure shall include the information identified in Section IX.2 above. ~~maximum mill levy that may be assessed and associated taxes that may be imposed on the residential property for each year the District is in existence.~~
4. To ensure that potential residential buyers are educated about the District, the District will ~~also use reasonable efforts and due diligence to~~ provide the information identified in Section IX.2 above ~~to potential residential buyers by furnishing information describing the key provisions of the approved District~~ to the developer or home builders for prominent display at all sales offices, and by inspecting the sales offices within the District's boundaries on a quarterly basis to assure the information provided is accurate and prominently displayed. ~~Such information shall include the maximum mill levy and associated taxes and fees that may be imposed on each property for each year the District is in existence and the improvements that are or have been paid for by the District.~~
5. The District shall create and maintain a public website that includes general information about the District as well as all available filings, including but not limited to:
- a. Contact information for the District
  - b. Service Plan
  - c. Intergovernmental agreements entered into by the District
  - d. Financial information and annual reports including Annual Budget and Audited Financial Statements
  - e. Director information including terms, upcoming vacancies, and information on how to become a Director
  - f. Election information
  - g. Organizational information
  - h. Information on the date, time and location of all Board meetings
  - i. District Board meeting minutes
  - j. District Boundary Map

## Exhibit H [Exhibit G]

### NOTICE OF SPECIAL DISTRICT DISCLOSURE

**ATTENTION HOMEBUYER:** You are purchasing a home that is located within **[District name] Metropolitan District**. This District has the authority to issue bonds or other debt to pay for development improvements and levy taxes and fees on all properties within the District for debt repayment and ongoing operations and maintenance.

Name of District:	<b>[District name] Metropolitan District</b>
Contact Information for District:	
District Website:	
District Boundaries:	See attached map.
Purpose of the District:	<p>Metropolitan district organized pursuant to C.R.S. § 32-1-101 et seq. The District was created to assist with the planning, design, acquisition, construction, installation, operation, maintenance, relocation, and financing of certain public improvements serving the <b>[project name]</b> located in Thornton, Adams County, Colorado and described further in the District's Service Plan.</p> <p>A copy of the District's Service Plan can be found on the District's website or by contacting the District at the District contact information above.</p>
Authorized Types of District Taxes:	<p><b>Debt Mill Levy and Operating Mill Levy</b></p> <p>These mill levies result in taxes you will owe to the District and are described further below.</p>
District's Total Debt Issuance Authorized per District's Service Plan:	\$
District Improvements Financed by Debt:	<p>The District intends to, or has already issued debt to pay for <b>[list major Public Improvement categories, and where appropriate identify specific improvements by name (i.e. specific roads, parks, etc.)]</b></p>
<b>Maximum Debt Mill Levy</b> that may be levied annually on properties within the District to pay back debt:	<p>Maximum Debt Mill Levy: 50.000 Mills</p> <p>This Mill Levy may fluctuate based on changes to residential assessment rates. Despite the mill levy fluctuation, the amount of taxes paid by the homeowner should substantially stay the same from year to year.</p> <p><b>[depending on service plan amendments, add info about the Board potentially being able to change the Debt Mill Levy]</b></p>

Ongoing Operations and Maintenance Services of the District:	The District intends to impose an Operating Mill Levy to pay for <i>[list eligible ongoing administration, operating and maintenance obligations]</i>
<b>Maximum Operating Mill Levy</b> that may be levied annually on properties within the District to pay for the ongoing operations and maintenance described above.	<p>Maximum Operating Mill Levy: 10 Mills</p> <p>This Mill Levy may fluctuate based on changes to residential assessment rates. Despite the mill levy fluctuation, the amount of taxes paid by the homeowner should substantially stay the same from year to year.</p> <p>The Operating Mill Levy is distinct from the Debt Mill Levy taxes and cannot be used to repay District Debt.</p> <p><i>[depending on service plan amendments, add info about the Board potentially being able to change the Debt Mill Levy]</i></p>
<b>District Fees:</b>	
<b>Other Taxing Entities to which you will pay taxes to:</b>	<i>[List all taxing entities and current mill levies for the Tax Area as identified by the Adams County Assessor]</i>

<p><b>Sample Calculation of Taxes Owed for a Residential Property within the District:</b></p> <p><b>Assumptions:</b>  Average market value of home in District is \$ _____  Debt Mill Levy is 50 mills  Operating Mill Levy is 10 mills  <b>Total Metropolitan District mill levies = 60 mills</b></p> <p><b>Calculation of Metropolitan District Taxes:</b>  \$ _____ x .0715 = \$ _____ (Assessed Valuation)  \$ _____ x .060 mills = \$ _____ <b>per year in taxes owed solely to the Metro District</b></p> <p><b>Total Additional Mill Levies from Other Taxing Entities:</b> _____ mills = \$ _____ annual taxes</p> <p><b>TOTAL [YEAR] PROPERTY TAXES FOR A HOME COSTING \$ _____ = \$ _____</b></p>
--

ACKNOWLEDGED AND AGREED TO BY BUYER:

Name: \_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

# Topic 4:

## Expiration Date of Service Plan and IGA

**Purpose:** Staff is proposing amendments to the model service plan and model intergovernmental language to set an expiration date so that if development does not occur and debt is not issued within a timely manner, the district's service plan and IGA will expire and the district will be required to request a new or reinstated service plan and new IGA with updated information once development is ready to occur. This is intended to ensure that the district's service plan is based on accurate and up-to-date identification of eligible improvements, costs and necessary financing for development as it is ready to occur. This is also consistent with City Code requirements for other development approvals to expire if development does not occur within a reasonable time period.

The following page identifies staff's **draft** service plan and IGA amendments for consideration. Language regarding the expiration will also be added to Chapter 66 of the City Code. These changes have not been presented to City Council yet and may be further revised.

Only the amended service plan and IGA sections are included herein. For broader context, please refer to the City's current model service plan and intergovernmental agreement, dated 2019, available on the [webpage](#).

## **Draft Model Service Plan and Model IGA Language Regarding Expiration of Service Plan and Intergovernmental Agreement**

**Summary:** Amends the following service plan and intergovernmental agreement sections:

- Section V.27. New paragraph added to indicate that the service plan will expire if the District has not issued Debt within 5 years of the date of service plan approval.
- A new IGA Paragraph 30 will be added regarding the expiration of the service plan and IGA. The remainder of the paragraphs will be renumbered sequentially.

### **Specific Model Service Plan Edits:**

#### **V. DESCRIPTION OF PROPOSED POWERS, IMPROVEMENTS AND SERVICES**

##### **A. Powers of the District and Service Plan Amendment.**

27. **Service Plan Expiration.** This Service Plan has been approved based on the District's intent to issue Debt in the near-term for the construction of Public Improvements required in the Approved Conceptual Site Plan for the Project based on the costs identified in Section V.B and Exhibit [F/G]. If the District does not issue Debt within five years of the date of approval of this Service Plan, this Service Plan will expire and the District shall no longer be authorized to issue Debt or impose a Debt Mill Levy, Operating Mill Levy, or Fees on any Taxable Property within the District. The District shall be required to request City Council approval of a new or reinstated Service Plan with updated information prior to the District issuing any form of Debt or imposing any mill levy or Fees.

### **Specific Model Intergovernmental Agreement Edits:**

#### **COVENANTS AND AGREEMENTS**

30. **Service Plan and Agreement Expiration.** If the District has not issued Debt within five years of the date of approval of the Service Plan, the Service Plan and this Agreement will expire. The District shall be required to request approval of a new or reinstated Service Plan and a new Agreement prior to the District issuing any form of Debt or imposing a Debt Mill Levy, Operating Mill Levy or Fees.

# Topic 5:

## Service Plan Compliance Remedies

**Purpose:** Staff is proposing the following **draft** amendments to the model service plan to clarify service plan amendment requirements and include a separate paragraph describing City remedies for any material departures from a district's approved service plan. The model intergovernmental agreement will also be changed to reflect the final language. City Code section 66-65 regarding compliance, modification and enforcement may also be amended to reflect any final changes. These changes have not been presented to City Council yet and may be further revised.

Only the amended service plan sections are included herein. For broader context, please refer to the City's current model service plan and intergovernmental agreement, dated 2019, available on the City [webpage](#).

### **Draft Model Service Plan Language Regarding City Remedies**

**Summary:** Amends the following service plan sections:

- Section V.A.26. Removes sentence regarding remedies and refocuses the content of the paragraph on the requirement to submit a service plan amendment.
- A new Section V.A.28 (numbered assuming the addition of new propose Section V.A.27 regarding Expiration) will be added to address City remedies for material departures from an approved service plan.

### **Specific Model Service Plan Edits:**

#### **V. DESCRIPTION OF PROPOSED POWERS, IMPROVEMENTS AND SERVICES**

##### **A. Powers of the District and Service Plan Amendment.**

26. **Service Plan Amendment Requirement.** This Service Plan has been designed with sufficient flexibility to enable the District to provide required services and facilities under evolving circumstances without the need for numerous amendments. ~~Actions of the District which violate the limitations set forth in V.A.1-25 or in VI.B-G shall be deemed to be material modifications to this Service Plan and the City shall be entitled to all remedies available under State and local law to enjoin such actions of the District.~~ Material modifications of the Service Plan, as originally approved, may be made by the District only by petition to and approval by City Council. Such approval of modifications shall be required with regard to any changes of a basic or essential nature that the City deems, in its sole discretion, a material modification, whether or not they are deemed to be immaterial by the District, and shall include but not be limited to changes to the limitations set forth in Sections V.A.1-25 or VI.B-J. Changes to the Service Plan of a minor technical nature may be approved administratively by the City. The City shall determine if a change is technical in nature.



27. Service Plan Expiration. *(See proposed new paragraph description in Topic 4)*

28. City Remedies for Material Departure from Service Plan. Pursuant to C.R.S. 32-1-207(3), as may be amended from time to time, the City may seek to enjoin any material departure from this Service Plan that the City deems, in its sole discretion, a material modification of this Service Plan. References to material modifications in this Service Plan, or District actions or inactions that expressly constitute material modifications pursuant to the terms of this Service Plan, shall not limit the City's ability to enforce the entirety of the Service Plan, and the City may seek to enjoin any material departure as a material modification. Notwithstanding the foregoing, injunctive relief shall not be the City's exclusive remedy for a material modification of this Service Plan, and the City shall be entitled to exercise all remedies available by law or in equity, specifically including the remedies set forth in the City Code, and suits for specific performance and/or monetary damages.

# Topic 6:

## Approved Conceptual Site Plan (CSP) Requirement

**Purpose:** Staff proposes to amend Chapter 66 of the City Code to indicate that if an applicant for a new metropolitan district is requesting approval of a service plan for a development that does not have an approved Conceptual Site Plan (CSP), that the service plan will contain modified language eliminating the authority of the district to issue Debt in any form or amount, or impose or collect any mill levies or fees. The district will be required to request City Council approval of an amended service plan to obtain authorization to issue Debt and impose mill levies and fees once a CSP is approved for the development that the district is financing. The amended service plan will be required to include current cost estimates for Public Improvements based on the approved CSP. The City will not enter into an intergovernmental agreement with the district until the amended service plan is approved subsequent to approval of the CSP.

It is the expectation of the City that a development have an approved Conceptual Site Plan in order to demonstrate the need for the District, identify accurate Public Improvement costs, and justify a reasonable amount of Debt based on the cost of Public Improvements required by the CSP. Upon approval of the CSP, the district will also have a better understanding of the anticipated total assessed valuation of the district in order to limit debt based on a more accurate revenue estimate.

Allowing a district to obtain approval of a service plan with limitations prior to an approved CSP will still enable the district to proceed to an organizational election, putting in place a financing mechanism that can help attract builders to develop the site.

# Topic 7:

## City Website as Information Portal on Metropolitan Districts

**Purpose:** Staff intends to update Thornton’s existing Metro District webpage to be an educational resource for residents and home buyers, and provide current application information for applicants. The purpose is to create more transparency for residents to understand: what metro districts are, how and why they are used, and taxes paid to a metro district versus other taxing entities. It will provide easily searchable information on all metro districts in Thornton. To accomplish this, staff is recommending the following changes:

**For residents and home buyers:**

- Make the webpage easier/more intuitive to find. Link the webpage to the City’s homepage or someplace more intuitive.
- Add more informational resources for residents. Add FAQs and links to DOLA’s pages with all district’s filings.
- Identify disclosure requirements. Provide a clear explanation of what the required disclosure requirements are.
- Like to PDF map and an interactive GIS map identifying metro district locations. Add a downloadable PDF map of the metro districts in Thornton and add a link to DOLA’s map from the State Demographer’s Office ([https://demography.dola.colorado.gov/CO\\_SpecialDistrict/](https://demography.dola.colorado.gov/CO_SpecialDistrict/)). Clicking on each district should bring up information for that district.
- List all metro districts in Thornton. List all metro districts with links for each district to the district’s webpage and/or DOLA webpage for each district. Include district contact information as well.

**For metro district applicants:**

- Include all application information and forms on the webpage. Create a section of the webpage that provides current application information including the model service plan and IGA forms, link to Chapter 66 of the City Code, and current submittal guidelines and fees.